IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3910 OF 2006

Dr. V. Chandra (Ph.D.) .. Petitioner

Vs.

The State of Maharashtr and ors. .. Respondents

Dr. V. Chandra, the petitioner, party-in-person present.

CORAM: B.H. MARLAPALLE, J.

Date : June 15, 2006.

P.C.:

1. Heard Dr. V. Chandra, the petitioner party-in-person and he has challenged the recovery certificate issued by the Deputy Registrar, Co-operative Societies, "R" Ward, Mumbai on 24/4/2006 by allowing the recovery application submitted by the Co-operative Housing Society by name Asha Nagar Building No.1 Co-op. Hsg. Soc. Ltd., Borivli (East), Mumbai 400 066. The said society has not been impleaded as one of the respondents in this petition.

2. It appears that the application moved by the society was rejected by the Deputy Registrar on 14/1/2004 and, therefore, the society had filed Revision Application No.153 of 2004 under Section 154 of the Maharashtra Co-operative Societies Act, 1960 and the said revision application was allowed by the Divisional Joint Registrar, Cooperative Societies, Mumbai on 4/7/2005. The application submitted by the Co-operative Housing Society was remanded with directions to the Deputy Registrar to adjudicate the claim in accordance with law.

3. Accordingly, the Deputy Registrar heard the society as well as the present petitioner and issued the recovery certificate impugned for an amount of Rs.1,31,873.62 paise only. The said order is required to be challenged by filing a revision under Section 154 of the Maharashtra Co-operative Societies Act, 1960 and when such a query was raised, the petitioner submitted that the issue of alternative remedy by way of revision would not come in his way to hear this petition. It is submitted that the impugned order was passed in violation of his fundamental rights under

Articles 14, 21 of the Constitution and the principles of natural justice were violated. He reiterated that the recovery application filed by the applicant itself was not maintainable and, therefore, the impugned order was without jurisdiction.

. A perusal of the application filed by the applicant clearly shows that the society sought to recover the prescribed monthly charges and that amount accumulated was Rs.1,31,873.62 paise. Inspite of the demand having been made, the society alleged that, the petitioner refused to pay the society's charges and, therefore, the application was filed. Prima facie, there is no reason to hold that the application was not maintainable under Section 101 of the Co-operative Societies Act, more so when the petitioner is admittedly a member of the applicant-society and he is occupying Flat No.203 on 2nd floor in Akansha Building, which is part of the society. I have also noticed from the orders passed by the Dy. Registrar as well as the Divisional Joint Registrar that the petitioner appeared as party in person before them and prima facie it does not appear to be correct that he

was denied the opportunity of placing his case before either of them.

4. Under the circumstances, there is no reason to entertain this petition directly and the petitioner is required to be relegated to the remedy of filing the revision application under Section 154 of the Maharashtra Co-operative Societies Act, 1960 before the Divisional Joint Registrar.

5. Petition is, therefore, rejected with liberty to approach the Divisional Joint Registrar by filing a Revision Application.

(B.H. Marlapalle,J.)